

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
4:13-CR-1-FL

UNITED STATES OF AMERICA	)	
	)	
v.	)	<b>ORDER OF DETENTION PENDING</b>
	)	<b>TRIAL</b>
ANTONIO DEMONTINEZ WOOTEN,	)	
	)	
Defendant.	)	

This case came before the court on 16 January 2013 for hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial. The government presented the testimony of a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives. Defendant presented the testimony of the proposed third-party custodian, his father-in-law. The court also reviewed the pretrial services report. After careful consideration pursuant to 18 U.S.C. § 3142(g) of the credible information and argument submitted, and based on the findings and reasons stated below and in open court, the court finds by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the safety of any other person and the community before trial if defendant is released. The government's motion is therefore GRANTED.

**Background**

Defendant was charged in a one-count indictment on 3 January 2013 with possession of a firearm by a convicted felon on 11 March 2012 in violation of 18 U.S.C. §§ 922(g)(1) and 924. The evidence presented at the hearing showed that the charges arise from the stop of a car registered to defendant in which, because he was drunk, he was travelling in the back seat. Police saw in plain view a loaded pistol between his defendant's feet. They also found 22 grams

of crack cocaine in the driver's side door. The driver and front-seat passenger denied knowledge of the pistol or the drugs. Defendant gave a spontaneous statement regarding the gun to the effect that "You got to do what you got to do" and acknowledged that he would do time in prison for having it. At the time, defendant was on probation for two felony drug convictions and was, by reason of these and multiple other felony convictions, a prohibited person.

### **Discussion**

The law requires that defendant be detained pending trial based on the following principal findings and reasons: evidence showing that the government has a strong case, including the evidence reviewed above; the gun- and drug-related nature of the offense charged; the circumstances of the offense charged, including its alleged commission while defendant was on probation and the loaded status of the pistol; defendant's criminal record, including 11 felony convictions, 20 misdemeanor convictions, a formal probation revocation, commission of multiple offenses while on probation, and pending felony and misdemeanor state charges; the danger of continued offense conduct by defendant if released; the unsuitability of the proposed third-party custodial arrangement due to the extent of the risk of danger presented by defendant; and the other findings and reasons stated in open court.

The court considered evidence offered as mitigating, such as attendance at community college. It finds, however, that the factors favoring detention outweigh such evidence. With respect to his pursuit of a college degree in particular, defendant committed the alleged offense and the pending alleged state offenses while attending college. Attendance at college therefore does not appear to deter defendant from continued criminal activity.

### **Conclusion**

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 18th day of January 2013.

  
James E. Gates  
United States Magistrate Judge

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